

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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In the Matter of )  
 )  
THE CINCINNATI GAS & ELECTRIC ) Docket No. 50-358  
COMPANY, et al. )  
 )  
(Wm. H. Zimmer Nuclear Station) )

APPLICANTS' MOTION TO STRIKE "INTERVENOR CITY  
OF CINCINNATI RESPONSE TO APPLICANTS' SUPPLEMENTAL  
RESPONSE TO CITY OF CINCINNATI'S MOTION FOR LEAVE  
TO AMEND ITS PETITION FOR LEAVE TO INTERVENE"

The City of Cincinnati ("Intervenor") has filed an unauthorized reply brief in response to the supplemental response by the Cincinnati Gas & Electric Company, et al. ("Applicants") opposing Intervenor's proposed contentions 18 and 19, regarding transmission of air monitoring data to the City. Intervenor has not sought from this Atomic Safety and Licensing Board permission to file its reply brief, nor has leave to file been granted. Under the circumstances, this unauthorized pleading should be stricken.

The NRC Rules of Practice expressly provide that the moving party has no right to reply, except as permitted, under these circumstances, by the presiding officer. 10 C.F.R. §2.730(c). See generally Detroit Edison Co. (Enrico Fermi Atomic Plant, Unit 2), ALAB-479, 7 NRC 470, 471 (1978); Nuclear Engineering Company, Inc. (Sheffield, Illinois Low-Level Radioactive Waste Disposal Site), ALAB-473, 7 NRC 737, 745 n.9 (1978). Moreover, Intervenor must seek leave prior

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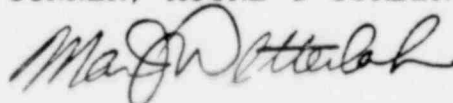
to filing its reply brief. Public Service Company of Oklahoma (Black Fox Station, Units 1 & 2), LBP-76-38, 4 NRC 435, 441 (1976). Thus, Intervenor cannot "cure" its failure to comply with the Commission's rules, since it has already filed its reply brief without first seeking permission.

Intervenor is represented by counsel, who is deemed to be fully conversant with the NRC Rules of Practice. Although certain allowances are made by licensing boards for pro se petitioners, counsel's disregard of the rules should not be countenanced.

Accordingly, it is appropriate that Intervenor's reply brief be stricken.

Respectfully submitted,

CONNER, MOORE & CORBER

A handwritten signature in dark ink, appearing to read "Mark J. Wetterhahn". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

Mark J. Wetterhahn  
Counsel for the Applicants

August 2, 1979

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(William H. Zimmer Nuclear Power )  
Station) )

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Motion to Strike 'Intervenor City of Cincinnati Response to Applicants' Supplemental Response to City of Cincinnati's Motion for Leave to Amend its Petition for Leave to Intervene,'" dated August 2, 1979, in the captioned matter, were served upon the following by deposit in the United States mail, this 2nd day of August, 1979:

Charles Bechhoefer, Esq.  
Chairman, Atomic Safety  
and Licensing Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Dr. Frank F. Hooper, Member  
Atomic Safety and Licensing  
Board  
School of Natural Resources  
University of Michigan  
Ann Arbor, Michigan 48109

Mr. Glenn O. Bright, Member  
Atomic Safety and Licensing  
Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Richard S. Salzman, Esq.  
Chairman, Atomic Safety and  
Licensing Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Dr. Lawrence R. Quarles  
Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Michael C. Farrar, Esq.  
Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Chairman, Atomic Safety and  
Licensing Appeal Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Chairman, Atomic Safety and  
Licensing Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Charles A. Barth, Esq.  
Counsel for the NRC Staff  
Office of the Executive Legal  
Director  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

William J. Moran, Esq.  
General Counsel  
Cincinnati Gas & Electric  
Company  
Post Office Box 960  
Cincinnati, Ohio 45201

Mr. Chase R. Stephens  
Docketing and Service Section  
Office of the Secretary  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

William Peter Heile, Esq.  
Assistant City Solicitor  
City of Cincinnati  
Box 214  
Cincinnati, Ohio 45202

Leah S. Kosik, Esq.  
Attorney at Law  
3454 Cornell Place  
Cincinnati, Ohio 45220

John D. Woliver, Esq.  
Clermont County Community  
Council  
Box 181  
Batavia, Ohio 45103



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Mark J. Wetterhahn